

**REMARKS**

Claims 1-16 remain in the application. Support for the amendment may be found in Specification, specifically paragraphs [0005] and [0013], and throughout the rest of the disclosure. Applicant asserts that no new matter has been added. Reconsideration of the Application is hereby requested

**Claim Rejections**

Generally, the invention recited in the claims is directed to a method that allows one to predict how a combination of software applications will interact with each other in a specific business transaction environment. Thus, a system designer may make informed decisions on how to combine different software applications in a specific business transaction environment based on the predictions made by the present invention.

Prior to the invention, the system designer had little information as to how reliable any given combination of software applications would be when operating together in a target environment. By gathering and analyzing defect data according to the claimed invention, the system designer is capable of designing a more reliable system with less experimentation.

***Rejections Under 35 U.S.C. § 101***

Claims 1-16 were rejected under 35 U.S.C. § 101 as being directed to nonstatutory subject matter. Specifically, the Action asserts that Claim 1 does not “provide a process that has a result that can be substantially repeatable or a process that substantially produces the same result again.” Applicant believes that the amendments to Claims 1 and 9 overcome this rejection.

In analyzing software inventions, the standard to be applied is whether the program produces a useful, tangible and concrete result. [MPEP 2106] If the claimed program produces a “useful, tangible and concrete” result, then it meets the requirements under 35 U.S.C. §101 so long as it does not “preempt[] a 35 U.S.C. 101 judicial exception” such as an “abstraction, law of nature, or natural phenomenon....” *Id.*

In analyzing the invention recited in Claims 1 and 9, the result of the invention is clearly useful, as it allows a system designer to design a more reliable system. The result is also tangible, as it is always a numerical indication of a predicted reliability of a system. Furthermore, the result is concrete as the method would always generate the same result so long as it operates on the same input data. Finally, the claimed invention does not preempt any abstraction, law of nature, or natural phenomenon. Thus, the claimed invention is statutory subject matter under the guidelines promulgated in MPEP 2601. Therefore, Applicant believes that this rejection has been overcome and respectfully requests that Claims 1 and 9 (and all claims depending therefrom) be allowed.

### ***Rejections Under 35 U.S.C. § 102***

Claims 1-17 were rejected under 35 U.S.C. § 102(b), as being anticipated by Gullo et al. Applicant has cancelled Claim 17 and, therefore, this rejection is moot with respect to Claim 17.

Regarding this rejection as applied to Claims 1-16, Gullo et al. discloses a system that “provides a reliability assessment of new equipment and/or parts designed for in-field use by assessing the similarities and differences between the new equipment and the predecessor equipment(s) to be replaced.” [Gullo, ¶0037] The Gullo system applies to “complex mechanical and electrical systems, such as aircraft and avionics systems.” [Gullo, ¶0038] Gullo, specifically

the cited parts of FIG. 2, disclose a system that collects end item failure data (item 202), calculates end item failure rates (item 204) and analyzes failures top-down (item 206). The collecting step (item 202) includes collecting end item field failure data for known older components. [Gullo, ¶0045] The calculating end item failure rates step (item 204) involves calculating the number of failures during a given period of time. [Gullo, ¶0057] The analysis of failures top-down (item 206) involves assessing the predecessor unit field data down to the root causes for the failures. [[Gullo, ¶0058]

Nowhere does Gullo disclose generating an item-specific predicted business transaction failure rate relative to a specific business transaction in a target computer environment, as recited in the independent claims. Furthermore, Gullo completely fails to teach the step of combining each item-specific predicted business transaction failure rate so as to generate a combined business transaction failure rate within the computer environment, also recited in the independent claims. Thus, while Gullo teaches a system that compares failure rates of old versus new equipment, it does not combine item-specific predicted business transaction failure rates so as to generate a *combined* business transaction failure rate. Therefore, Gullo cannot enable a system designer to predict a combined business transaction failure rate within the computer environment, as recited in the independent claims. For this reason, it is believed that this rejection has been overcome and Applicant respectfully requests that it be withdrawn.

#### **Prior Art Made of Record**

In addition to the remarks presented above, Applicant asserts that the remaining prior art made of record neither anticipates, nor renders obvious the claimed invention.

#### **CONCLUSION**

Applicant believes that the rejections have been overcome for the reasons recited above.

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Therefore, Applicant respectfully requests that all remaining claims be allowed and that a timely Notice of Allowance be issued.

No addition fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, including any necessary extensions of time, which are hereby requested, to Deposit Account No. 09-0461.

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Date

  
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